

Battle Creek City Planning Commission

Staff report for December 7, 2011 meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

Subject: Petition Z-01-11, a Zoning Reclassification request for 1743 W. Michigan Avenue, Parcel #4290-00-014-0, from R-2 Two Family Residential to R-3A Multiple Family Residential.

Summary

Ms. Joy Brown, of LaJoya Properties, Inc., is requesting a Zoning Reclassification of 1743 W. Michigan Avenue, Parcel #4290-00-014-0 from an "R-2 Two Family Residential District" to an "R-3A Multiple Family Residential District".

Background/Property Information

The subject property is located at the southeast corner of West Michigan Avenue and Stringham Road, near the west end of the city limits, as outlined in yellow on the following vicinity map.



Subject Property:

The current zoning of the property is R-2 One-Two Family Residential. The total land area of this property is 18,608 s.f. (.43 acre).



There is one two-story structure on the property, a residential structure that was constructed in approximately 1920. The footprint of the structure is 1,292 s.f, and the overall square footage is 1,924. The detached garage seen in the above photograph is located on the adjacent property.

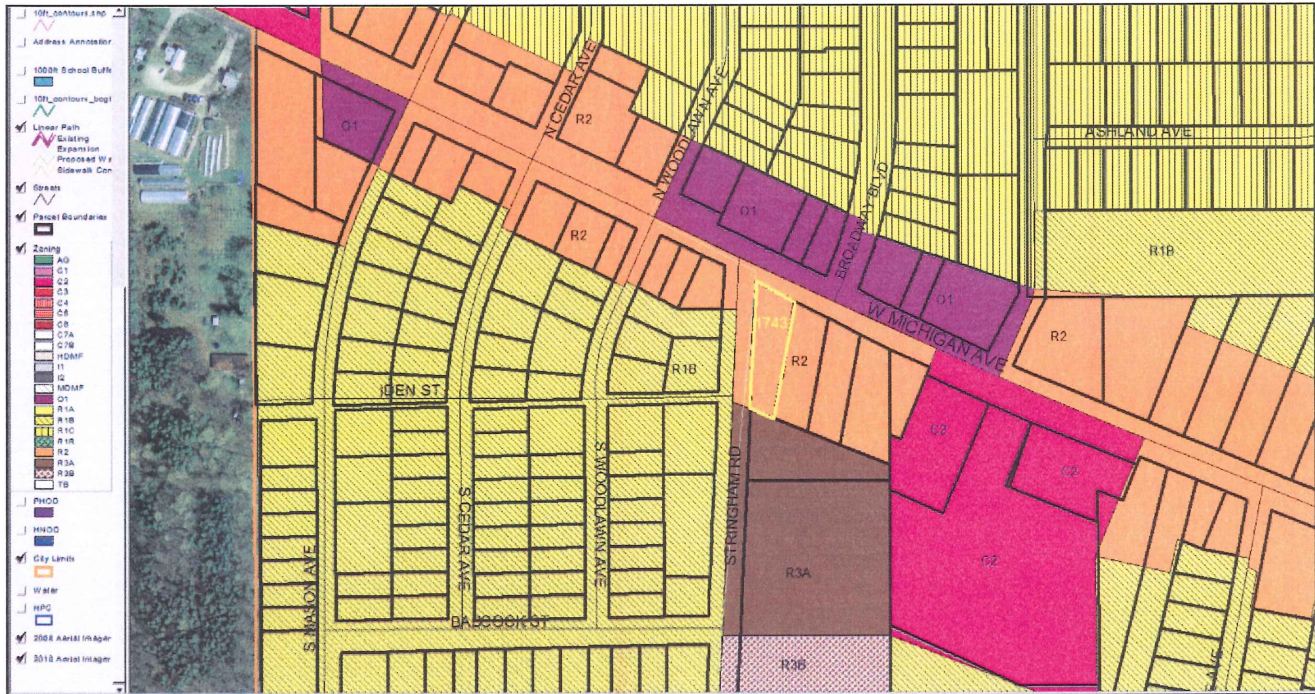
City Assessing records from the late 1970's/early 1980's indicate that there were two dwelling units in building. The structure received a rental registration permits in the early 2000's for three units; however at that time zoning was not reviewed prior to the issuance of these permits. There are no building permits on record to indicate when the conversion from two units to three units took place; however, as the zoning of the property has only allowed the maximum of two dwelling units, the conversion was done so in violation of the zoning ordinance, and presumably building code.

Surrounding Properties:

Surrounding properties are generally consistent with the zoning district in which they are placed:

- Directly north of the subject parcel, on the north side of W. Michigan Avenue, properties are zoned O-1 Office District, and contain a few houses with infill office uses including an insurance office, dental office, and salon.
- The properties directly east and west along W. Michigan Avenue are zoned R-2 Two-Family Residential and contain residential structures. Further to the east is a McDonald's Restaurant, Family Farm and Home, and a credit union – these properties are zoned C-2 General Business District.

- To the south, the properties are zoned R-3A Multi-Family Residential. There is a single family home directly south of the subject property, and the River Apartment complex (120 units) south of that.



W. Michigan Avenue is a State trunkline with an average daily traffic volume of 12,200; there are four drive-lanes with one center turn lane. Stringham Road has a functional road classification as a minor arterial; adjacent to the subject property the street has three drive lanes and one right turn lane.

Proposed Scope of Project

The applicant for the rezoning request, Ms. Joy Brown, has acquired the property in the past year and is seeking the rezoning to allow for the continuation of the three units. If the rezoning request were denied, the structure would be required to be converted back to two dwelling units. The applicant has plans for improvements to the structure; but they are pending the decision of the rezoning request.

However, even though the petitioner has submitted this information, the request for a rezoning solely deals with the zoning of the property and subsequently the uses that would be permitted on the property, as outlined in the following section of this report. The planning enabling legislation does not allow for conditions to be placed on an approval, and therefore, any discussions relative to the proposed use as well as site plans, floor plans, building appearances, etc. are not relevant and should not be considered as a basis for a decision. When considering a zoning reclassification request, best practice should be to plan for the most intensive land use allowed within the proposed zoning district because, if approved, any permitted use in the zoning district would be allowed at this location.

Applicable Zoning Ordinance Provision

The City of Battle Creek zoning ordinance was crafted using a pyramidal structure, where specific uses permitted in a less intensive zoning district may also be permitted in a more intensive zoning district. For example, the R-3A Multiple Family District lists permitted uses in that district, but also provides that any use within the R-2 Two-Family Residential is also permitted. R-2 Two-Family Residential permits all uses listed in the R-1C Single Family Residential district. Therefore, when considering the zoning reclassification petition, please be advised that any of the following permitted uses listed below would be allowed at this location.

R-3A Multiple Family Residential - 1250.02 PERMITTED USES.

In an R-3A Multiple Family Residential District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the R-2 Two-Family Residential District;
- (b) Multiple dwellings;
- (c) Community garages, when accessory to a permitted building or use; and
- (d) Home occupations, as provided in Chapter 1292.

R-2 Two Family Residential – 1248.02 PERMITTED USES

In an R-2 Two-Family Residential District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the R-1C Single-Family Residential District;
- (b) Two-family dwellings;
- (c) Rooming or boarding houses, provided that not more than four nontransient roomers or boarders are accommodated in one dwelling. The dwelling shall also house a resident individual or family who shall be responsible for property maintenance and be registered in conformity with Chapter 1462 of the Building and Housing Code.
- (d) Home occupations, as provided in Chapter 1292.

R-1C Single-Family Residential - 1246.02 PERMITTED USES.

In an R-1C Single-Family Residential District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the R-1B Single-Family Residential District;
- (b) Parks, playgrounds and community buildings owned or operated by public agencies;
- (c) Public libraries and museums; and
- (d) Home occupations, as provided in Chapter 1292.

R-1B Single-Family Residential - 1244.02 PERMITTED USES.

In an R-1B Single-Family Residential District, a building or premises shall be used only for the following purposes:

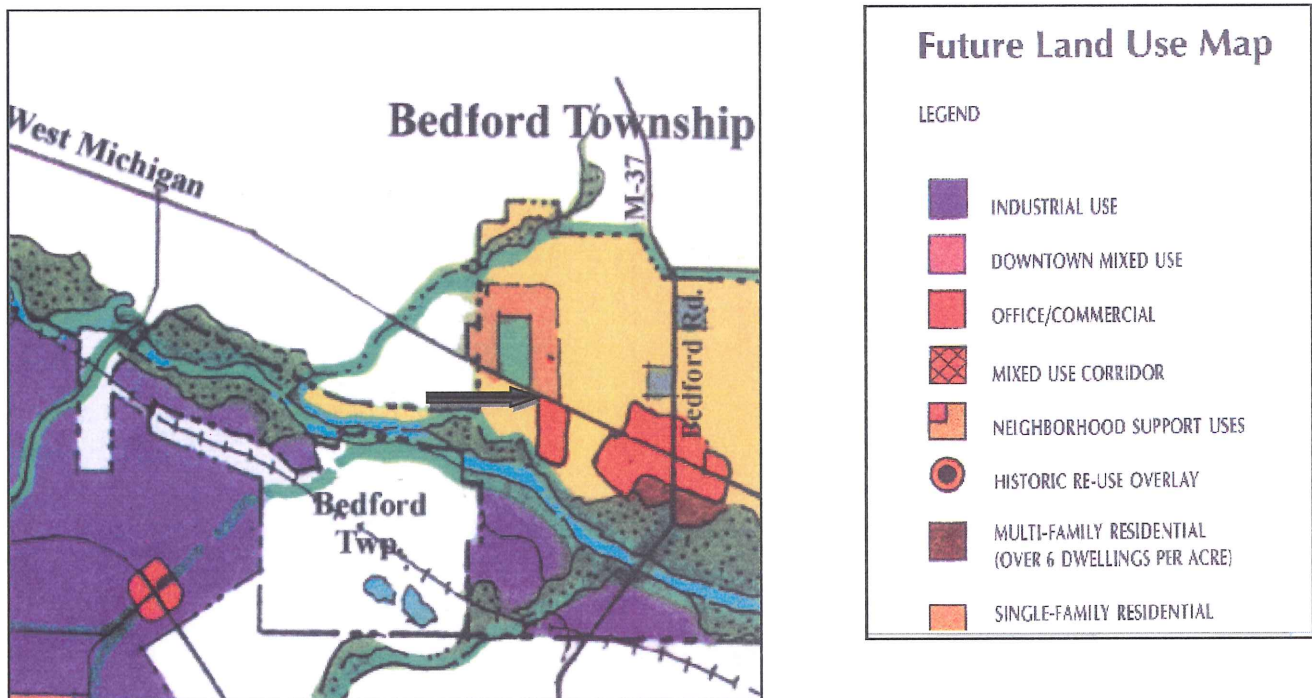
- (a) Single-family dwellings;
- (b) Public schools, both elementary and high, or private schools having a curriculum equivalent to a public elementary or high school and having no rooms regularly used for housing or sleeping purposes, except for a caretaker residing on the premises;
- (c) Golf courses, except par three, miniature courses or driving ranges operated for commercial purposes;
- (d) Accessory buildings and accessory uses customarily incidental to the principal uses set forth in subsections (a) to (c) hereof;
- (e) Home occupations, as provided in Chapter 1292;
- (f) State licensed residential facilities for six or fewer residents, provided that any such facility maintains a distance of at least 1,500 feet from any other similar State licensed facility; and
- (g) Parks, playgrounds and community buildings owned or operated by public agencies.

Therefore, if the rezoning were approved, the property owner could legally maintain the three dwelling units in the structure. However, they would also have the ability to construct a new structure containing multiple apartments on the property. Based upon an analysis of the zoning ordinance regulations concerning permitted uses as well as land development standards including lot size, building coverage, parking, etc., and taking into consideration the shape of the parcel, the maximum number of units allowed could be between fourteen to sixteen units, depending on size.

Master Plan

The Planning Enabling Act of 2008 requires a master plan be prepared and adopted that will “guide and accomplish development that is coordinated, adjusted, harmonious, efficient, and economical; that considers the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development; and will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare.” The master plan focuses on desired land use patterns for typically a twenty year time frame, and the enabling legislation and case law require that zoning be based upon this adopted master plan.

Relative to the current rezoning request, the City of Battle Creek, in its Comprehensive Plan that was adopted in 1997, indicates on the Future Land Use this corridor and adjacent properties to the south and east as Office/Commercial.



While the rezoning request does not specifically conform to the proposed use designated in the future land use map, the request for multiple family residential is a less intensive use than commercial in that there will be less noise, traffic, and parking associated with a low density multi-family residential property, and therefore it is more consistent and harmonious with surrounding properties all of which are residential in nature. Additionally, the rezoning request meets a number of other goals/objectives in the master plan, including:

A goal of the master plan (Pg. 4-4) is to prevent sprawl at the edge of the City's developed areas and to promote new development at urban densities, to encourage reinvestment in older areas of the City, and to have clearly defined nodes of commercial activity, scaled to appropriately serve needs of the area (pg. 4-9). To this end, the rezoning of the property to Multi-Family Residential will help to clearly define the land uses along the West Michigan corridor, and will provide a transitory boundary between commercial and residential uses (Pg. 4-5). The Neighborhood Preservation Strategies portion of the master plan (pg. 5-14) considers this entire area as a residential neighborhood, with goals to protect the properties from encroachment. The rezoning of this property will in all cases further this goal, as well as to allow for property improvements that will stabilize the surrounding residential neighborhood.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Enquirer on Tuesday, November 22, 2011 and notices of the public hearing were also sent by regular mail on November 18, 2011 to forty-four owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has not received any questions or comments relative to this request.

Neighborhood Outreach

The applicant presented their request at a recent meeting of the Neighborhood Planning Council #5 and per staff in attendance at that meeting the request was approved unanimously. We have requested the approval in writing for our files.

Analysis and Recommendation

As outlined above, the request for a rezoning solely deals with the zoning and subsequently the uses that would be allowable on a property, and not the actual development proposal. Consideration should be given to the surrounding zoning and land uses, existing infrastructure, and most importantly consistency with the Comprehensive Plan.

Therefore, as detailed herein, planning staff recommends that the Planning Commission recommend approval to the City Commission the Zoning Reclassification Petition Z-01-11, a zoning reclassification from R-2 Two-Family Residential to R-3A Multiple Family Residential, based on the following findings:

- The rezoning request meets a number of goals/objectives in the master plan, in that it will help to prevent sprawl at the edge of the City's developed areas (Pg. 4-4), and to clearly define nodes of commercial activity, scaled to appropriately serve needs of the area (pg. 4-9). The rezoning of the property to Multi-Family Residential will help to clearly define the land uses along the West Michigan corridor, and will provide a transitory boundary between commercial and residential uses (Pg. 4-5). The Neighborhood Preservation Strategies portion of the master plan (pg. 5-14) considers this entire area as a residential neighborhood, with goals to protect these properties from encroachment. The rezoning of this property will in all cases further this goal, as well as to allow activity on the property that will stabilize the surrounding residential neighborhood.
- The parcel is contiguous to the R-3A Multiple Family Residential District and existing multiple family residential land uses along the corridor, and therefore, the rezoning of

this property to R-3A Multiple Family Residential District will not create an instance of spot zoning and will be harmonious and consistent with existing surrounding land uses.

- **As a State trunkline, W. Michigan Avenue is able to accommodate moderate to high levels of traffic and would not be negatively impacted by the rezoning of the property. Additionally, the existing infrastructure, including the size and availability of public water and sanitary sewer support a higher intensity land use than is allowed by the current zoning. Therefore, the existing infrastructure supports, and is consistent with, the rezoning request.**

Attachments

The following information is attached and made part of this Staff report.

1. Zoning Reclassification Application Form and Supplemental Information (Petition #Z-01-11)

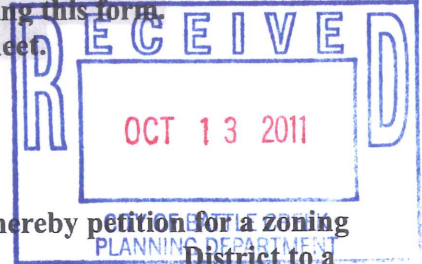
PETITION FOR A ZONING RECLASSIFICATION

City of Battle Creek, Michigan Department of Planning and Zoning



Petition No. Z-01-11

Please read instructions on reverse before completing this form.
If additional space is required, attach a separate sheet.



The City Commission of the City of Battle Creek, Michigan

Honorable Mayor and City Commissioners:

I / We, the undersigned owner(s) of the property described below, do hereby petition for a zoning reclassification of this property from a R-2 District to a R3-A District.

Legal Description of Property:

ASSRS Plat of 10500 ADD LOT 5. ALSO BEG ELY LOT LI AT PT
LYING 68 FT NELY OF SE LOT COR - NELY ALG ELY LOT LI 21 F.
SELY AT RT ANGLE 2.5 FT. SWLY PART WITH ELY LOT LI 21 FT.
NELY 2.5 FT to P.O.B.
* 1743 WEST MICHIGAN 4290-00-014-0.

Present Use of Property:

(Now) was used as an apartment Building

Proposed Use of Property:

To use as a 3 unit

Reasons why petitioner feels that a zoning reclassification should be granted:

This property butts up a a R3-A area.

Property Owner(s) ☒ or Agent ☐ (Check one)

Name Jay Brown - La Jona Properties

Address 635 S. Van Lake Drive.
Richland, MI 49083

Telephone 269-209-0399 Fax 269 505 2190

Signature Jay Brown

Name

Address

Telephone

Fax

Signature

FOR OFFICE USE ONLY

Date Petition Received: 10-13-11
Petition Fee Received: \$200.00
Received By: Lena A. Harris

Planning Commission Recommendation:

Approve ☐ Deny ☐ Date ☐

City Commission Action:

Approve ☐ Deny ☐ Date ☐

Resolution No. ☐

INSTRUCTIONS FOR FILING A PETITION FOR A ZONING RECLASSIFICATION

This petition must be accompanied by the following:

1. Payment of a non-refundable **\$600.00** petition fee.
(Make Checks Payable to: City of Battle Creek)
2. An affidavit authorizing an agent to act on behalf of the owner if the petitioner is not the owner.
3. A map or site plan of the area requested for zoning reclassification.

When completing this form, please supply the most complete information possible relating to the existing and proposed use of the property. For example, if the property is residential, please give the number of units; if it is commercial or industrial, give the type of business or industry.

While not required, it would be advisable that the petitioner consults with a member of the Planning Department staff prior to submitting this petition. If assistance is required, please call: (269) 966-3320

It is always advisable that you contact the most immediately affected adjacent property owners prior to submitting this application. You may be able to minimize concerns that would otherwise be raised at a Public Hearing.

The completed form and petition fee should be submitted to the Planning Department located at:

Planning and Zoning Department
77 E. Michigan Avenue, Ste 204
Battle Creek, MI 49017

******* IMPORTANT NOTICE *******

INASMUCH AS WE MUST PUBLISH A NOTICE OF THE PUBLIC HEARING ON A ZONING RECLASSIFICATION AND MAIL NOTICES TO ALL PROPERTY OWNERS WITHIN 300 FEET OF THE PROPERTY; THIS PETITION SHOULD BE SUBMITTED PRIOR TO THE PETITION DEADLINE DATE FOR THE MONTH AT WHICH YOU WISH TO APPEAR. THE PLANNING COMMISSION MEETS ON THE FOURTH WEDNESDAY OF EVERY MONTH, (4:00 P.M., AT 10 N. DIVISION, ROOM 301, COMMISSION CHAMBERS, CITY HALL). **NOTE:** MONTHLY MEETING DATES & PETITION DEADLINE DATES ARE AVAILABLE ON OUR WEB SITE: **WWW.BATTLECREEKMI.GOV**

General Property Information[\[Back to Non-Printer Friendly Version\]](#) [\[Send To Printer\]](#)

Parcel: 4290-00-014-0 Unit: CITY OF BATTLE CREEK

Property Address [collapse]1743 W MICHIGAN AVE
BATTLE CREEK, MI 49037-1628**Owner Information** [collapse]LAJOYA PROPERTIES INC
N/A

Unit: 52

Taxpayer Information [collapse]LAJOYA PROPERTIES INC
635 S GULL LAKE DR
RICHLAND, MI 49083-9381**General Information for Tax Year 2011** [collapse]

Property Class:	401	Assessed Value:	\$27,661
School District:	13020 - BATTLE CREEK SCHOOLS	Taxable Value:	\$27,661
State Equalized Value:	\$27,661	Map #	133NE
User Number Indx:		Date of Last Name Chg:	02/05/2011
		Date Filed:	
		Notes:	N/A

Principal Residence Exemption	May 1st	Final
		-
2011	0.0000 %	0.0000 %

Previous Year Info	MBOR Assessed	Final S.E.V.	Final Taxable
2010	\$35,647	\$35,647	\$31,090
2009	\$42,777	\$42,777	\$31,184

Land Information [collapse]

Frontage		Depth
Lot 1:	70.00 Ft.	240.00 Ft.
Lot 2:	0.00 Ft.	0.00 Ft.
Lot 3:	0.00 Ft.	0.00 Ft.
Total Frontage:	70.00 Ft.	Average Depth: 240.00 Ft.

Total Acreage: 0.39
Zoning Code: R2
Land Value: \$4,484
Land Improvements: \$0
Renaissance Zone: NO
Renaissance Zone Expiration Date:
ECF Neighborhood Code: 20100 - 20100 BC NW

Mortgage Code: N/A
Lot Dimensions/Comments:

[collapse]

**Legal Information for 4290-00-014-0**

ASSRS PLAT OF IOSCO ADD LOT 5; ALSO BEG ELY LOT LI AT PT LYING 68 FT NELY OF SE LOT COR - NELY ALG ELY LOT LI 21 FT - SELY AT RT ANGLES 2.5 FT - SWLY PARA WITH ELY LOT LI 21 FT - NWLY 2.5 FT TO POB

Sales Information

14 sale record(s) found.						
Sale Date	Sale Price	Instrument	Grantor	Grantee	Terms Of Sale	Liber/Page
10/12/2010	\$6,000.00	12	SOVEREIGN BANK	LAJOYA PROPERTIES INC	08 BANK/HUD/VA/FHA	3581/0210
02/23/2010	\$0.00	12	DEN HOLLANDER, JACOB JR & LINDA K	SOVEREIGN BANK	28 AFF ABANDONMENT	3527/0856
02/08/2010	\$1.00	12	SOVEREIGN BANK FSB	SOVEREIGN BANK	08 BANK/HUD/VA/FHA	3526/0333
02/04/2010	\$14,450.00	12	DEN HOLLANDER, JACOB JR & LINDA	SOVEREIGN BANK	02 SHERIFF/FORECLOSURE	3522/0784
08/19/2004	\$95,000.00	05	TAYLOR, BRADLEY W & MONIKA F	DEN HOLLANDER, JACOB JR	25 WD/LC N.USED	2986/0019
07/24/2001	\$72,000.00	05	H & K ENTERPRISES CO-PARTNERSHIP	TAYLOR, BRADLEY W & MONIKA F	05 WAR DEED	2345/0374
07/24/2001	\$48,000.00	05	SMITH, MICKELL J & SALLI J	H & K ENTERPRISES, CO-PARTNERSHIP	09 LC FULFILLMENT	2345/0372
07/24/2001	\$50,000.00	05	SMITH TRUSTEE, JAMES C	SMITH, MICKELL J & SALLI J	09 LC FULFILLMENT	2345/0370
12/31/1999	\$1.00	12	ANDREWS, K D & J M/MC CARTY, H C & J	H & K ENTERPRISES	12 QCD/OTHER	2206/0044
03/01/1999	\$0.00	12	MC CARTY/ANDREWS	MC CARTY/ANDREWS/BRUNSON (T/C)	12 QCD/OTHER	2117/0164
10/30/1998	\$48,000.00	01	SMITH, MICKELL J & SALLI J	MC CARTY/ANDREWS	25 WD/LC N.USED	2075/0106
08/04/1998	\$1.00	12	WRIGHT	SMITH, MICKELL J & SALLI J	12 QCD/OTHER	2047/0744
07/03/1996	\$52,700.00	01	SMITH, MICKEL J & SALLI J	WRIGHT	01 LC	1873/379
06/03/1996	\$0.00	12	GREEN	SMITH, MICKELL & SALLI	12 QCD/OTHER	1868/221

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RENTAL REGISTRATIONEnforcement | EN05-00577

Property Information

4290-00-014-0	1743 W MICHIGAN AVE	Subdivision:	
	BATTLE CREEK MI, 49037-1628	Lot:	Block:

Name Information

Owner:	DEN HOLLANDER,JACOB JR	Phone:	(616) 781 9881
Occupant:		Phone:	
Filer:		Phone:	

Enforcement Information

Date Filed:	12/30/2005	Date Closed:	12/30/2005	Status:	REGISTERED RENTAL
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Complaint:

Last Action Date:	03/28/2007	Last Inspection:	12/30/2005
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Last Action:

Exported record closing to Golden Svs

registered Inspection |

Status:	Completed	Result:	No Violation
Scheduled:		Completed:	12/30/2005

City of Battle Creek - Neighborhood Code Compliance Division

RENTAL REGISTRATION

READ INFORMATION ON BACK BEFORE COMPLETING THIS FORM

#5182
#1880

DWELLING INFORMATION		OWNER Must always be filled out	
Address:	1743 W. Michigan	Name:	Jacob DenHollander
<input type="checkbox"/> Single Family Unit	<input checked="" type="checkbox"/> Multi-Family Unit	Date of Birth:	6-11-60
Total # of: Dwelling Units	Rental Units 3	Address:	P.O. Box 140581 Grand Rapids, MI NW 49514
Rooming Units	# Roomers	Phone number:	616-292-4015
Identification of units not to be rented:	N/A	Address where you will accept housing calls:	P.O. Box 140581 Grand Rapids, MI 49514
Unit # occupied by owner, manager or responsible agent	N/A	Phone number where you will accept housing calls:	616-292-4015
Property parcel #	Zoning R-2	Date:	12-6-05 Signature: Jmf

RESPONSIBLE LOCAL AGENT		MANAGER Must be filled out if manager is not owner or responsible agent	
Name:		Name:	Doug Ferris
Date of Birth:		Date of Birth:	10-29-68
Address:		Address:	P.O. Box 140581 Grand Rapids, MI 49514
Phone number:		Phone number:	269-998-6720
Address where you will accept notices:		Address where you will accept notices:	P.O. Box 140581 Grand Rapids, MI NW 49514
Phone number where you will accept housing calls:		Phone number where you will accept housing calls:	269-998-6720
Date:	Signature:	Date:	12-6-05 Signature: L. Taylor P. Ferris

O1

#1743

R2

4290-00-014-0

R1B

R3A